Mr. V. VEDAVYASACHARYA.—Notice.

Mr. B. CHOODE GOWDA.—Even at the previous session of the Assembly, was it not brought to notice that *oppige* cane was lying uncut for long periods and yet *non-oppige* cane was being preferred ?

Mr. S. I. MUMTAZ.—Cannot the Government ask the Company to state why *non-oppige* cane was preferred when *oppige* cane was ready to be harvested ?

Mr. PRESIDENT.—There must have been some valid grounds for the Company to do so. However, enquiries will be made in the matter.

Mr. D. DEVARAJ URS.—Who fixes the price of cane—is it the Committee or the Government ?

Mr. PRESIDENT.—Government, on the recommendation of the Committee.

Mr. U. L. RAMACHANDRA RAO.—The rate was fixed at Rs. 11 till 11th October 1940. For how long did the previous rate of Rs. 11 per ton prevail ?

Mr. V. VEDAVYASACHARYA.—From August to October.

Mr. U. L. RAMACHANDRA RAO.—How long will the reduced rate of Rs. 10 continue ?

Mr. PRESIDENT.—Until it is revised.

Mr. U. L. RAMACHANDRA RAO.—If the price of sugar rises again, will the price of cane also be raised ?

Mr. V. VEDAVYASACHARYA.—In such cases, the cane suppliers are entitled to get a bonus under certain conditions.

Mr. PRESIDENT.—It is not possible to discuss the whole policy of purchases at question time.

Mr. U. L. RAMACHANDRA RAO.—There will be no further questions if the Government agree that the existing rate should be improved.

Mr. K. V. ANANTARAMAN.—Unless the raiyats agree to a reduction in the stipulated rate for cane being effected in case there is a fall in the price of sugar, there may be no justification for them to claim higher rates even if the price of sugar improves. Besides, what has been fixed now is only the minimum price, and being part of the contract, it is binding on both. The operative rate may be different from the contractual or *oppige* rate.

Mr. PRESIDENT.— The rule is that the minimum price at which sugar-cane will be purchased by the factory should be fixed and notified from time to time.

High Court's Judgment in Appeal Case No. 30 of 1939-40.

Q.—107. **Mr. RAGHUNATHA RAO** (Srinivasapur—Rural) —

Will the Government be pleased to state :—

(*a*) whether they preferred an appeal to the High Court against the acquittal of Mr. S. K. Venkatarangiengar, in Bangalore Sessions Case No. 30 of 1939-40 ;

(*b*) who was appointed to conduct the appeal in the High Court on behalf of Government ;

(*c*) whether the High Court interfered with the order of acquittal ;

(*d*) whether they are aware of the remarks made by the Chief Justice in the course of the disposal of the appeal that the power vested in the Government under Section 417, Criminal Procedure Code, is liable to be abused by the executive ?

A.—**The SECRETARY to GOVERNMENT, LAW DEPARTMENT (Mr. H. V. Narayana Rao).**—

(*a*) Yes.

(*b*) Mr. K. Ramaswamy.

(*c*) No.

(*d*) Government have noted the remarks of the Chief Justice regarding the scope of Section 417, Criminal Procedure Code, contained in the following passage of the Judgment :—

" Section 417 of the Code of Criminal Procedure puts no limit on the power of the executive Government to bring any order of acquittal before us on appeal. If we were to adopt the rule which Mr. Ramaswamy suggests we should adopt, under the provisions of Section 417 of the Code, it would be possible for the executive Government to compel this Court in effect to retry every acquitted person on the same principles in regard to the consideration of evidence as would be adopted in the trial court, that is, it would be possible for the executive Government to give the prosecution a second chance in every case in which there was an acquittal. If that were really the effect of Section 417 of the Code of Criminal Procedure, I should regard it as an oppressive, dangerous and pernicious provision of law. It would obviously be open to the very

gravest abuse. It is useless in such a matter to suggest that we may always trust the executive Government not to abuse such a provision, if that is its effect. We have no reason whatever to suppose that the present Government of Mysore would abuse such a provision. I have had occasion before to say that in my experience the Government of Mysore exercises its powers under Section 417 of the Code with restraint and discretion. But it would be very foolish to judge the utility or safety of any piece of political or judicial machinery in the light only of the virtues of an existing Government. A dangerous weapon may be quite safe in the hands of one Government: it may be an instrument of evil oppression in the hands of its successor. If we look outside India, we see that a large part of the world to-day is under the control of Government, of which it would certainly not be an overstatement to say that they spend much of their time and energy in harassing those of their fellow-subjects who have the misfortune not to be among their supporters. In my opinion the proper protection of the public against the abuse of such powers as are given by Section 417 of the Code of Criminal Procedure is not the discretion of changing Governments but the principle adopted and maintained by this Court for more than half a century to guide us in exercising our powers in regard to appeals against acquittals. If the law in Mysore were in this matter what Mr. Ramaswamy represents it to be in British India, for myself I think it desirable that a change should be made in the law by legislation as soon as possible. I shall certainly lend no hand to any attempt to deprive His Highness's subjects of one of the advantages which they enjoy over British Indian subjects."

Mr. K. CHENGALARAYA REDDY.—Who conducted the case in the lower court?

Mr. H. V. NARAYANA RAO.—The Public Prosecutor.

Mr. K. CHENGALARAYA REDDY.—What is his name?

Mr. H. V. NARAYANA RAO.—Mr. G. S. Doraiswamy Iyer.

Mr. K. CHENGALARAYA REDDY.—Is it not usual for Government to consult the Advocate-General when such appeals are filed?

Mr. H. V. NARAYANA RAO.—Yes. Even in the present case the opinion of the Advocate-General has been taken.

Mr. K. CHENGALARAYA REDDY.—Is it possible to let the House know the Advocate-General's opinion in this particular case?

Mr. H. V. NARAYANA RAO.—I think it is not necessary to publish it.

Mr. K. CHENGALARAYA REDDY.—Where was the necessity for appointing a special Public Prosecutor to conduct this case?

Mr. H. V. NARAYANA RAO.—In the opinion of the Government there were very good reasons for it. But, I think it is not proper to disclose those reasons here.

Mr. KHAJI SYED YUSUF SAHIB.—Whenever the work is too heavy for the Public Prosecutors, is it not usual to appoint special Public Prosecutors?

Mr. H. V. NARAYANA RAO.—Yes.

Mr. K. CHENGALARAYA REDDY.—Government have followed a different policy in this particular case. We want to know the reason.

Mr. PRESIDENT.—According to the Criminal Procedure Code, a special Public Prosecutor can be appointed to conduct the case and this was done.

Mr. K. CHENGALARAYA REDDY.—What was the opinion of the Advocate-General in this case?

Mr. PRESIDENT.—The responsibility for filing an appeal against an acquittal order rests with Government. On whose advice they acted, it is not possible to disclose.

Mr. K. CHENGALARAYA REDDY.—Responsibility vests with Government, no doubt. But may I know the reason why Government discharged that responsibility in a particular way, while the usual course of action was open to them?

Mr. PRESIDENT.—The reason is obvious.

Mr. K. CHENGALARAYA REDDY.—Not to us. However, in the light of the opinion expressed by the Chief Justice in this case, do the Government contemplate any change in the law referred to in this behalf?

Mr. H. V. NARAYANA RAO.—No change in the law is contemplated by Government.

Mr. K. CHENGALARAYA REDDY.—When it is held by the High Court that Section 417 of the Criminal Procedure Code might be a harmful weapon in the hands of the executive, is it not desirable to safe-guard public interest by suitably amending the law?

Mr. H. V. NARAYANA RAO.—What the Chief Justice has stated is that Section 417 might be a harmful weapon in the hands of a *future* Government, not of the *present*.

Mr. S. RAMAPPA.—What was the extra cost to Government on account of

the appointment of the special Public Prosecutor?

Mr. H. V. NARAYANA RAO.—Notice.

Mr. S. RAMAPPA.—If, as usual, the Advocate-General had conducted this case also, would not the Government have saved expenditure to that extent?

Mr. H. V. NARAYANA RAO.—Yes.

Mr. Bhupalam R. CHANDRASEKHARAYYA.—Of course, the High Court have observed that the present Government were exercising their powers with restraint and discretion. Nevertheless they have expressed the apprehension that the rule referred to in the judgment might be a dangerous weapon in the hands of future Governments. Is it not desirable to ensure now alone that the future Governments do not abuse this power?

Mr. H. V. NARAYANA RAO.—Government do not think so.

Mr. S. N. M. RAZVI.—Is it possible to foresee the nature of the constitution of future Governments?

Mr. H. V. NARAYANA RAO.—No.

Mr. K. CHENGALARAYA REDDY.—It is going to be responsible Government.

Mr. S. N. M. RAZVI.—It remains to be seen.

Mr. K. MANJAPPA GOWDA.—Was a special Public Prosecutor appointed on the ground that the Advocate-General could not conduct the case?

Mr. H. V. NARAYANA RAO.—No.

Mr. K. MANJAPPA GOWDA.—Did the special Public Prosecutor possess any better qualification than the Advocate-General?

Mr. H. V. NARAYANA RAO.—No.

Mr. A. N. RAMA RAO.—Was it only in this particular case that a special Public Prosecutor was appointed, or is it usual to do so whenever necessity demands it?

Mr. H. V. NARAYANA RAO.—It has been done in a number of cases.

GOVERNMENT BUSINESS—BILLS—*contd.*

Labour Bill—*contd.*

Before further discussion of the principles of the Bill was taken up,

Mr. K. CHENGALARAYA REDDY suggested that the amendments suggested by Mr. M. N. Jois and himself be taken up at the end.

Mr. Bhupalam R. CHANDRASEKHARAYYA urged that the amendments be taken up first.

Mr. K. CHENGALARAYA REDDY quoted the example of the Legislative Council in which discussion of the principles of the legislative measures preceded discussion of amendments.

The MINISTER for LOCAL SELF-GOVERNMENT and PUBLIC HEALTH (Mr. H. B. Gundappa Gowda) said that the procedure referred to was special to the Legislative Council.

Mr. M. SITARAMA SASTRI suggested that the principles of the Bill as well as the amendments might be discussed together.

Messrs. S. I. MUMTAZ, S. C. MALLIAH, S. N. M. RAZVI, KHAJI SYED YUSUF SAHIB, A. SRIKANTIAH, Nawab SHER KHAN, A. N. RAMA RAO, F. C. DEVARAJ URS and others preferred the amendments being disposed of first.

Mr. N. RAMA RAO however thought that it was better to discuss the principles of the Bill first and the amendments next.

Mr. C. SUBBANNA NAIK agreed to this view.

The PRESIDENT stated that under the Rules and Standing Orders relating to the conduct of business in the Representative Assembly there was no provision for stages such as the First Reading, the Second Reading and the Third Reading of Bills. It was only the principles of Bills that could be discussed by the Assembly and not the details thereof. That being so, the question would naturally arise as to which of the proposed amendments related to the principles of the Bill and which to details of its provisions. Under existing Rules, the principles of a Bill could only be treated as being more or less on a par with resolutions. In other words, the amendments, if any, to a Bill would have to be discussed first and voted upon before its principles were taken up for discussion. If the amendments